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# Decision

**Matter of:** Criterion Corporation

**File:** B-422309

**Date:** April 16, 2024

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## DIGEST

Protest that the agency unreasonably rejected the protester’s proposal based on unrealistic pricing is sustained where the record shows that the price realism analysis did not sufficiently consider the firm’s proposed technical approach.

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## DECISION

Criterion Corporation, of Marquette, Michigan, protests the rejection of its proposal under request for proposals (RFP) No. FA6643-23-R-0004, issued by the Department of the Air Force for base operations support services. Criterion argues that the agency unreasonably found its proposed price to be unrealistic.

We sustain the protest.

## BACKGROUND

On September 26, 2023, the Air Force issued the RFP to procure base operations support services at Homestead Air Reserve Base, Florida. Agency Report (AR), Tab 5, RFP at 1, 16; Contracting Officer’s Statement (COS) at 2.<sup>1</sup> Specific services to be provided included materiel management, ground transportation and vehicle management, traffic management operations, real property maintenance, and fuels management. RFP at 16.

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<sup>1</sup> Citations to the report utilize the page numbers provided by the agency.

The RFP contemplated the award of an indefinite-delivery, indefinite-quantity contract with orders to be placed on fixed-price, time-and-material, and cost-reimbursable bases. RFP at 3-13. The contract would be performed over a 1-year base period, four 1-year option periods, and one 6-month extension period. *Id.*

The RFP provided for a two-step evaluation process, which would culminate in a tradeoff between past performance and price factors. RFP at 2032, 2035. Under step one, the agency would evaluate proposed prices to determine whether they were complete, fair, reasonable, balanced, and, if necessary, realistic. *Id.* Any offeror with an unfavorable proposed price would be excluded from further consideration. *Id.*

Under step two, the agency would evaluate proposals for technical acceptability, starting with the lowest priced proposal. RFP at 2035. The agency would then evaluate offerors' referenced past performance. *Id.* Finally, the agency would select the proposal offering the most favorable combination of price and past performance for award. *Id.*

The agency received multiple proposals prior to the November 20, 2023, close of the solicitation period. AR, Tab 8, RFP, amend. 3 at 2; COS at 4. The agency reviewed Criterion's proposal and determined that its proposed price was significantly lower than the internal government estimate (IGE) and the average proposed price.<sup>2</sup> *Id.* As a result, the agency conducted a price realism analysis and concluded that Criterion's proposed price was unrealistic. *Id.* at 4-5.

On January 12, 2024, the Air Force notified Criterion that its proposal was excluded from further consideration on the basis that the proposed price was unrealistically low. AR, Tab 11, Notice of Unsuccessful Offeror at 1. This protest followed.

## DISCUSSION

Criterion argues that the agency unreasonably conducted the price realism analysis. Protest at 6-9. The protester asserts that it proposed a unique technical approach with numerous beneficial aspects that yielded a very competitive price, but that the agency ignored this technical approach and simply conducted a mechanical comparison of the firm's proposed price against the IGE and the average price of other offerors. *Id.*

The agency responds that it reasonably determined that Criterion's proposed price was unrealistically low because it examined the firm's underlying technical approach.<sup>3</sup> MOL

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<sup>2</sup> The agency computed the average price using only some of the proposed prices because it excluded Criterion's and another rejected offeror's prices. Memorandum of Law (MOL) at 4.

<sup>3</sup> The agency also argues that our Office should dismiss Criterion's allegation as untimely because the RFP contemplated that the technical evaluation would occur after  
(continued...)

at 8. The Air Force explains that it examined Criterion's technical proposal and determined that the firm proposed more full-time equivalents (FTE) than proposed by the second-low offeror, despite Criterion's price being significantly lower. COS at 7. The Air Force also explains that it compared the simple average percentage difference between Criterion's proposed labor rate and that of the second-low offeror and determined that the average percentage difference was only marginally lower. COS at 5; see *also* AR, Tab 10, Cost/Price Worksheet at 5. Based on this comparison, the agency argues that Criterion's proposed price must be unrealistic because the firm cannot possibly perform at the proposed price. *Id.* at 5-7.

The RFP instructed offerors to submit their proposed prices in two parts. RFP at 2063. First, offerors were instructed to complete section B of the RFP by inserting unit prices for each fixed-price contract line item number (CLIN). *Id.* Offerors were cautioned to base their proposed prices on their technical approaches. *Id.* The RFP specifically instructed that proposed prices must demonstrate a logical correlation to the staffing proposed in the technical approach. *Id.*

Second, offerors were instructed to complete a pricing workbook. RFP at 2063. Offerors were instructed to enter the unit prices for the fixed-price CLINs, a material handling fee, and a mobilization fee in the "firm-fixed-price worksheet." *Id.* at 350. Offerors were also instructed to enter fully burdened labor rates for various labor categories in the "service contract labor standards worksheet" and the "construction wage rate worksheet"; these worksheets included estimated labor hours for each category. *Id.* at 350-351. The workbook would then use the unit prices and fully burdened labor rates to calculate the total evaluated price, which would be displayed on a "summary worksheet." *Id.* at 350.

Criterion's proposal included a total evaluated price of \$[DELETED]. AR, Tab 9, Criterion Proposal at 155; AR, Tab 10, Cost/Price Worksheet at 4. As referenced above, the Air Force determined that Criterion's evaluated price was much lower than the IGE and the average evaluated price of all offerors, and therefore elected to conduct a price realism analysis. AR, Tab 10, Cost/Price Worksheet at 2.

In conducting the analysis, the agency started by reiterating that Criterion's evaluated price was significantly lower than the IGE (\$[DELETED]) and the average price for all

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the price evaluation and, therefore, the RFP advised that any price realism analysis would not consider aspects of a firm's technical approach. See MOL at 6-8. We do not find this argument persuasive because it reflects a misunderstanding of the nature of a price realism analysis. A price realism analysis is used by an agency to evaluate whether an offeror can realistically perform its technical solution at the fixed price proposed. See *NCI Information Sys., Inc.*, B-412870.2, Oct. 14, 2016, 2016 CPD ¶ 310 at 14. Thus, while the agency need not evaluate the merits of the firm's technical proposal, the agency nevertheless must examine the firm's technical solution in order to conduct a proper price realism analysis. See *id.*

offerors (\$[DELETED]). AR, Tab 10, Cost/Price Worksheet at 2-3. The agency also noted that Criterion's price was much lower than the second-low offeror's price. *Id.*

The agency then compared Criterion's proposal against the second-low offeror's proposal and made two observations. First, based on the agency's comparison of the offerors' technical proposals, the agency noted that Criterion proposed [DELETED] FTEs; a number slightly greater than the number of FTEs proposed by the second-low offeror. AR, Tab 10, Cost/Price Worksheet at 2. Thus, the agency concluded that Criterion's proposed unit prices for the fixed-price CLINs must be unrealistic because Criterion simply could not propose more FTEs at its much lower overall price. *Id.*

Second, the agency noted that Criterion's proposed labor rates were only slight lower on average than the rates proposed by the second-low offeror. AR, Tab 10 Cost/Price Worksheet at 2. To draw this conclusion, the agency compared the proposed labor rates for each category and noted the percentage difference. *Id.* at 5. As an example, the agency compared Criterion's and the second-low offeror's proposed labor rates for the carpenter labor category, and then determined that Criterion's rate was [DELETED] percent lower. *Id.* The agency repeated this comparison for each labor category and determined that Criterion's proposed labor rates were on average [DELETED] percent lower. *Id.* Based on this result, the agency concluded that Criterion's proposed unit prices for the fixed-price CLINs must be unrealistic because they could not possibly be consistent with the proposed labor rates. *Id.* at 2; COS at 5.

As context, the purpose of a price realism analysis is to determine whether proposed prices are realistic for the work to be performed; reflect a clear understanding of the requirements; and are consistent with the offeror's unique method of performance. Federal Acquisition Regulation (FAR) 15.404-1(d)(3); *ManTech Advanced Sys. Int'l, Inc.*, B-421560.4, Aug. 14, 2023, 2023 CPD ¶ 210 at 8. The results of a price realism assessment may be used to assess risk in contract performance. FAR 15.404-1(d)(3); *Gen. Dynamics Info. Tech., Inc.*, B-417616.2 *et al.*, Mar. 31, 2020, 2020 CPD ¶ 132 at 14.

When reviewing an agency's price realism analysis, our Office has explained that the depth of any analysis is a matter within the sound exercise of the agency's discretion; however, GAO will consider whether the analysis was reasonable. *Apogee Eng'g, LLC*, B-414829.2, B-414829.3, Feb. 21, 2019, 2019 CPD ¶ 85 at 8-9. To be reasonable, a price realism analysis must include consideration of the proposed technical approach. *See id.*; *GiaCare & MedTrust JV, LLC*, B-407966.4, Nov. 2, 2016, 2016 CPD ¶ 321 at 9 ("Our cases in this area recognize that, as with cost realism analysis, an agency's assessment of price realism requires consideration of the offeror's technical approach."). In this regard, a price realism analysis that only compares proposed prices is an inherently limited methodology given the requirement to consider each offeror's technical approach. *See GiaCare & MedTrust JV, LLC, supra.*

On this record, we conclude that the record does not demonstrate that the agency reasonably conducted the price realism analysis. Although the Air Force argues that it

examined the respective numbers of proposed FTEs, the record does not show that the agency considered Criterion's technical solution to include its proposed labor mix (*i.e.* the types and experience levels of the proposed workers) or labor utilization strategy when concluding that the firm's proposed price was unrealistic.

For example, the record does not show that the Air Force considered whether Criterion's proposed number of FTEs and labor categories for each performance work area could realistically support the required duties at the proposed unit prices. *See, e.g.*, AR, Tab 9, Criterion Proposal at 60. Further, there is no evidence in the record that the agency specifically considered whether Criterion's proposed unit price for real property maintenance was realistic in light of the duties to be performed and the fully burdened labor rates for tradesperson positions. *See id.* at 60, 158-159; *see also* Comments at 14-15. Similarly, there is no evidence showing that the agency considered whether Criterion's plan to [DELETED] was realistic. *See* AR, Tab 9, Criterion Proposal at 62; *see also* Comments at 11. Both considerations might have shed light on the realism of Criterion's price.

Instead, the record shows that the agency concluded that Criterion's price was unrealistically low because the firm proposed more FTEs and lower labor rates when compared with the FTEs and labor rates of the second-low offeror. Problematic with this comparison, however, is the fact that the agency did not consider whether Criterion used a different labor mix or technical solution from that of the second-low offeror. *Cf. AMEC Earth & Env'tl., Inc.*, B-404959.2, July 12, 2011, 2011 CPD ¶ 168 at 7-8 (price realism analysis limited to a comparison between proposed prices and other prices received and the government estimate was reasonable because the agency determined that offerors' technical approaches were similar). Without knowing how the labor mix and technical solutions compared there was no way for the agency to know if its conclusions about Criterion's price were based on a true apples-to-apples comparison. The comparison does not yield any meaningful information, for example, about the risk inherent in Criterion's proposal because the firm may simply intend to rely more heavily on cheaper labor categories or a different labor utilization strategy. Thus, based on this record, we conclude that the agency unreasonably conducted its price realism analysis.

To be clear, as stated above, the depth of an agency's realism assessment is a matter of agency discretion. In this regard, the agency's conclusion that "[i]t is unrealistic to reason that Criterion can propose [DELETED] more FTEs for [much] lower than their nearest competitor and successfully accomplish the scope of work" may well prove accurate. *See* AR, Tab 10, Cost/Price Worksheet at 2. Nevertheless, the analysis (and evaluation record) must show that the agency reasonably considered if the work can realistically be performed at the price proposed. Here, as explained above, the record does not demonstrate that the agency conducted a reasonable analysis.

Because we conclude that the agency's analysis was unreasonable, we also must address whether the action resulted in competitive prejudice. This is because, to sustain a protest, our Office must find that, but for the agency's action, the protester would have had a substantial chance of receiving award (*i.e.*, the protester must

demonstrate that it suffered competitive prejudice). *Chugach Logistics & Facility Servs. JV, LLC*, B-421451.3, B-421451.4, Sept. 8, 2023, 2023 CPD ¶ 270 at 6. Under this requirement, a protester need not demonstrate that it was likely or even probable that it would have received award; rather, the protester need only demonstrate a reasonable possibility of prejudice. *Id.*

Here, the record demonstrates Criterion suffered competitive prejudice. As noted above, Criterion was excluded from the competition based solely on the agency's price realism analysis. See AR, Tab 10, Cost/Price Worksheet at 3. Thus, without the unreasonable analysis, Criterion might still be under consideration for award. Accordingly, we sustain the protest.

## RECOMMENDATION

We recommend that the agency conduct a new price realism evaluation of Criterion's proposal. In this regard, the agency should evaluate whether Criterion's low proposed price reflects a technical solution demonstrating a misunderstanding of the duties to be performed or an inordinate risk of unsuccessful performance.

We also recommend that the agency reimburse the protester its costs of filing and pursuing the protest, including reasonable attorneys' fees. 4 C.F.R. § 21.8(d)(1). The protester's certified claim for costs, detailing the time expended and costs incurred, must be submitted to the agency within 60 days after receipt of this decision. 4 C.F.R. § 21.8(f).

The protest is sustained.

Edda Emmanuelli Perez  
General Counsel